

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., October 4, 2010

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Attorney General: Law Enforcement Officers Standards and Training Commission:

(September 28, 2010) intends to adopt rules to establish a county coroner training program. The general authority for these rules, as cited by the commission, is SDCL 7-14-10 and 23-3-35.

A public hearing will be held at the Best Western Ramkota Hotel and Convention Center, 3200 West Maple Street, Sioux Falls, South Dakota, on November 17, 2010, at 1:00 p.m. CST. A copy of the proposed rules may be obtained without charge from and written comments sent to the Law Enforcement Officers Standards and Training Commission, 1302 E. Highway 14, Pierre, South Dakota 57501. Written comments must be received by November 10, 2010, to be considered. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3584 before the hearing.

Department of Revenue and Regulation:

Division of Insurance: (September 29, 2010) intends to amend rules to set forth minimum loss ratios for health insurance and to establish a refund formula. The general authority for these rules, as cited by the division, is SDCL 58-4-1, 58-17-4.2, 58-17-64, and 58-17-87.

A public hearing will be held in the 2nd Floor Conference Room, Room 240, Capitol Lake Plaza, Pierre, South Dakota, on October 25, 2010, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Division

of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by October 22, 2010, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing James.Kocer@state.sd.us. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3563 at least 48 hours before the hearing.

Department of Revenue and Regulation:

Division of Insurance: (September 29, 2010) intends to amend rules to prohibit insurers from discouraging applications for health insurance during open enrollment, revise the standards for internal appeals of health insurance claim determinations, establish standards for the coverage of preventive services in health insurance, require the extension of health insurance coverage for children who have not reached the age of 26, require access to certain health care specialists in health insurance, set standards for health insurance compensation with respect to emergency care, restrict the ability of health insurers to rescind coverage, prohibit the application of annual and lifetime limits in health insurance policies in certain situations, and provide for open enrollment in health insurance for those that have not reached the age of 19. The general authority for these rules, as cited by the division, is SDCL 58-17-87 and 58-18-79.

A public hearing will be held in the 2nd Floor Conference Room, Room 240, Capitol Lake Plaza, Pierre, South Dakota, on October 25, 2010, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by October 22, 2010, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing James.Kocer@state.sd.us. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3563 at least 48 hours before the hearing.

Department of Revenue and Regulation: South Dakota Lottery Commission: (September 30, 2010) intends to amend rules to adopt the latest amended game rules of the Multi-State Lottery Association for the Mega Millions Game, including the Megaplier Special Promotion Game rules, and the Powerball Game, including the Power Play rules, as the rules of the South Dakota Lottery for the games. The general authority for these rules, as cited by the commission, is SDCL 42-7A-21.

A public hearing will be held in Room 412, 4th floor, State Capitol, Pierre, South Dakota, on October 27, 2010, at 9:45 a.m. CT. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue & Regulation, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185. Copies of the rules are also available at the department's website: http://www.state.sd.us/drr2/lottery_rules_public/hearing0521.pdf. Written comments must be received by October 26, 2010, to be considered. This hearing is being held in a physically

accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-4701 at least forty-eight hours before the hearing.

Department of Human Services: Division of Rehabilitation Services: (October 1, 2010) intends to amend Interpreters for the Deaf rules to add a complaint process against a certified interpreter, provide for notice to the interpreter of the complaint, add an investigation process and timeline; will require any interpreter registering with the Division to adhere to the Code of Professional Conduct as adopted by the Registry of Interpreters for the Deaf; allows an interpreter with an EIPA assessment score of 3.5 or higher who has failed to register within 12 months of the renewal date to register under the initial registration process providing they submit the continuing education as required under the annual registration process; combines initial registration for nationally certified interpreters and the interpreters registering with the EIPA assessment score under one rule; combines annual registration for the currently certified South Dakota certified interpreter, an interpreter registering with an EIPA assessment score and a nationally certified interpreter under one rule; changes the due date of annual registration to August 31 of each year for all interpreters; changes the continuing education contact hours to 80 hours in a four year maintenance cycle for South Dakota certified interpreters or an interpreter registering with an EIPA assessment score; provides for a modified first time cycle for an interpreter registering with an EIPA assessment score and starts all of the currently certified South Dakota interpreter cycles to begin on September 1, 2011; allows for an extension of continuing education maintenance under certain circumstances; amend Cochlear Implants rules to amend the eligibility requirements for funding of cochlear implants by the Division of Rehabilitation Services by removing the current requirement that the applicant must be five years old or if less than 21 have one implant before the age of five or a documented progressive hearing loss that led to

deafness after speech and language were developed and by changing the requirement to the applicant be less than 21 years of age at the time of application; amends the application process to reflect that the requirement for deafness after speech and language development is no longer required; and amends the definition of an applicant to reflect the age change to less than 21 years of age. The general authority for these rules, as cited by the department, is SDCL 1-36A-10.5, 1-36A-12, and 49-31-50.2.

A public hearing will be held in the Large Conference Room at the Department of Human Services, Hillview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on October 25, 2010, at 1:15 p.m. (CDT). Additional video conference sites will be: Division of Rehabilitation Services, 1707 4th Ave. S.E., Suite A, Aberdeen, South Dakota; Division of Rehabilitation Services, Time Square Plaza, 111-A New York St., Rapid City, South Dakota; and the Division of Rehabilitation Services, Dept. 21, 811 E. 10th St., Sioux Falls, South Dakota. Copies of the proposed rules may be obtained without charge from and written comments sent to Velda Bartel, Administrative Rules Coordinator, Department of Human Services, Hillview Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed rules may also be obtained at the Department's website at www.dhs.sd.gov/drs/ or by emailing velda.bartel@state.sd.us. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Materials sent by mail, email, or fax must reach the Department of Human Services by 5 p.m. on November 4, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-5990 or (605) 773-6412 TTY at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

BUREAU OF PERSONNEL: CAREER SERVICE COMMISSION: 55:01:22:08.02.

History-Notice: 37 SDR 34, August 23, 2010
Hearing: September 15, 2010
Filed: September 28, 2010
Effective: October 18, 2010

DEPARTMENT OF HUMAN SERVICES: DIVISION OF DEVELOPMENTAL

DISABILITIES: 46:17:01:01; 46:17:02:01 to 46:17:02:05, inclusive; 46:17:03:01, 46:17:03:02; 46:17:04:01 to 46:17:04:18, inclusive; 46:17:05:01 to 46:17:05:06, inclusive; and 46:17:06:01 to 46:17:06:14, inclusive.

History-Notice: 37 SDR 17, August 2, 2010
Hearing: September 2, 2010
Filed: September 28, 2010
Effective: October 18, 2010

DEPARTMENT OF REVENUE AND REGULATION: PROPERTY AND

SPECIAL TAXES: 64:02:01:13; 64:02:03:16, 64:02:03:16.01; 64:03:01:02.01; 64:04:01:13, 64:04:01:20, 64:04:01:22, 64:04:01:23, 64:04:01:24, 64:04:01:25, 64:04:01:29, 64:04:01:30, 64:04:01:30.01, 64:04:01:31, 64:04:01:31.01; 64:75:04:21; 64:75:08:12, and 64:75:08:13.

History-Notice: 37 SDR 34, August 23, 2010
Hearing: September 10, 2010
Filed: September 29, 2010
Effective: October 19, 2010

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS: 50:05:0:11.

History-Notice: 36 SDR 199, June 1, 2010
Hearing: August 25, 2010
Filed: September 30, 2010
Effective: October 20, 2010

DEPARTMENT OF REVENUE AND REGULATION: COMMISSION ON GAMING:

20:04:20:47, 20:04:20:48;
 20:04:21:40; 20:04:22:20, 20:04:22:21;
 20:04:24:36; 20:04:25:18; 20:04:27:13.02,
 20:04:27:13.07, 20:04:27:13.12, 20:04:27:14;
 20:04:30:93, 20:04:30:122; 20:04:33:07;
 20:18:15:30.09; 20:18:17:24.02; 20:18:31:01,
 20:18:31:02, and 20:18:31:03.

History-Notice: 37 SDR 33, August 23, 2010

Hearing: September 15, 2010

Filed: September 30, 2010

Effective: October 20, 2010

Executive Appointment:

Todd Herrboldt, Sioux Falls, was appointed on September 28, 2010, to the **Board of Social Work Examiners**, to replace Kay Lindgren, effective September 28, 2010, and shall continue until June 30, 2012.

Executive Order:

The Governor has signed **Executive Order 2010-36** dated September 26, 2010. This order protects public safety by prohibiting all recreational use and navigation on the Big Sioux River, Pipestone Creek, Split Rock Creek, and Skunk Creek within the borders of Minnehaha County. This order will remain in effect until rescinded by the Governor or the Secretary of the Department of Game, Fish and Parks.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

10-7-2010	Revenue and Regulation: Real Estate Commission	Amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state; 37 SDR 47.
10-7-2010	Game, Fish and Parks	Amend License Forms and Fees rules to add a Custer State Park (CSP) "any mountain lion" hunting license and establish the fee for the license at \$300 and increase the fee for a regular statewide mountain lion hunting license from \$10 to \$20; amend a Hunting Requirements and Prohibited Methods rule to

		remove the prohibition against using dogs and electronic calls when hunting mountain lions; amend CSP Restrictions rules to establish an eligibility requirement prohibiting a person who received a CSP "any mountain lion" license in any of the preceding nine years from applying for a license for the current CSP mountain lion season; and amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, number of resident licenses available, and increase the total mountain lion harvest limit outside of CSP from 40 to 45 mountain lions and increase the female harvest limit outside of CSP from 25 to 30 female mountain lions; limit residents to one mountain lion hunting license per year; and transfer language pertaining to the use of electronic calls in hunting mountain lions contained in the current mountain lion hunting season rule to the Hunting Requirements and Prohibited Methods Chapter; establish a new mountain lion hunting season within the fenced boundaries of CSP to take place from January 1 through March 31 of each year; establish the number of licenses available to state residents at 5 at a cost per license of \$300; and provide for other restrictions for the CSP mountain lion hunting license; 37 SDR 58.
10-13-2010	Social Services: Division of Adult Services and Aging	Adopt Hospice Services rules – adopt definitions, identify eligibility requirements for providers and recipients, outline covered service limitations, define notice requirements and reimbursement policy, and clarify claim submission requirements; 37 SDR 57.
10-14-2010	Education: Professional Administrators Practices and Standards Commission	Amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a complaint; 37 SDR 41.
10-14-2010	Bureau of Administration	Amend rules to update requirements related to the fee for placement on the state bidders list, and to establish specifications and requirements for state government purchases of environmentally preferable products; 37 SDR 53.
10-14-2010	Bureau of Administration	Amend rules to update statutory citations related to the requirement that certain state

		publications bear an inscription listing the publisher, the number of copies published, and the approximate cost of publication per copy; 37 SDR 57.
10-21-2010	Revenue and Regulation: Division of Securities	Amend Broker-Dealer and Agent rules to change the use of NASD to FINRA due to the merger of these two organization; clarify the series 63 examination lapse of registration; provide for any SEC required fiduciary standards; add senior specific professional designations; and exempt certain business brokers from broker-dealer registration; amend Registration Requirements and Procedures rules to clarify existing rules and exempt certain advertising in public offerings prior to complete registration; amend Investment Adviser rules to repeal all existing rules and replace those with model rules that coordinate with the Uniform Securities Act of 2002 and include the new SEC ADV format; and provide for an exemption to registration for certain investments advisers; and amend Notice Filings for Covered Securities and Registration Exemptions rules to clarify how to calculate the number of purchasers under ARSD 47-31B-202(14) and the use of this same exemption by out of state issuers; and define "isolated non-issuer."; 37 SDR 63.
10-22-2010	Health: Board of Dentistry	Amend rules to change from regulating by the modality of the delivery of the sedative or anesthetic to regulating based on the level of sedation; define four levels of sedation – minimal, moderate, deep, and general anesthesia; and require dentists who are not specialists to disclaim as much if they advertise services in a recognized specialty area and places certain requirements on advertising in non-recognized specialty areas; 37 SDR 57.
10-25-2010	Revenue and Regulation: Division of Insurance	Amend rules to set forth minimum loss ratios for health insurance and to establish a refund formula; 37 SDR 67.
10-25-2010	Revenue and Regulation: Division of Insurance	Amend rules to prohibit insurers from discouraging applications for health insurance during open enrollment, revise the standards for internal appeals of health insurance claim determinations, establish standards for the coverage of preventive services in health

		insurance, require the extension of health insurance coverage for children who have not reached the age of 26, require access to certain health care specialists in health insurance, set standards for health insurance compensation with respect to emergency care, restrict the ability of health insurers to rescind coverage, prohibit the application of annual and lifetime limits in health insurance policies in certain situations, and provide for open enrollment in health insurance for those that have not reached the age of 19; 37 SDR 67.
10-25-2010	Human Services: Division of Rehabilitation Services	Amend Interpreters for the Deaf rules to add a complaint process against a certified interpreter, provide for notice to the interpreter of the complaint, add an investigation process and timeline; will require any interpreter registering with the Division to adhere to the Code of Professional Conduct as adopted by the Registry of Interpreters for the Deaf; allows an interpreter with an EIPA assessment score of 3.5 or higher who has failed to register within 12 months of the renewal date to register under the initial registration process providing they submit the continuing education as required under the annual registration process; combines initial registration for nationally certified interpreters and the interpreters registering with the EIPA assessment score under one rule; combines annual registration for the currently certified South Dakota certified interpreter, an interpreter registering with an EIPA assessment score and a nationally certified interpreter under one rule; changes the due date of annual registration to August 31 of each year for all interpreters; changes the continuing education contact hours to 80 hours in a four year maintenance cycle for South Dakota certified interpreters or an interpreter registering with an EIPA assessment score; provides for a modified first time cycle for an interpreter registering with an EIPA assessment score and starts all of the currently certified South Dakota interpreter cycles to begin on September 1, 2011; allows for an extension of continuing education maintenance under certain circumstances; amend Cochlear

		Implants rules to amend the eligibility requirements for funding of cochlear implants by the Division of Rehabilitation Services by removing the current requirement that the applicant must be five years old or if less than 21 have one implant before the age of five or a documented progressive hearing loss that led to deafness after speech and language were developed and by changing the requirement to the applicant be less than 21 years of age at the time of application; amends the application process to reflect that the requirement for deafness after speech and language development is no longer required; and amends the definition of an applicant to reflect the age change to less than 21 years of age; 37 SDR 68.
10-27-2010	Revenue and Regulation: Lottery Commission	Amend rules to adopt the latest amended game rules of the Multi-State Lottery Association for the Mega Millions Game, including the Megaplier Special Promotion Game rules, and the Powerball Game, including the Power Play rules, as the rules of the South Dakota Lottery for the games; 37 SDR 68.
11-17-2010	Attorney General: Law Enforcement Officers Standards and Training Commission	Adopt rules to establish a county coroner training program; 37 SDR 67.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Wednesday, November 17, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: December 20.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.